



# TOWN OF BOW

## Planning Board

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### Unapproved Minutes

1/22/2026

<https://www.youtube.com/live/MoJUD-DIj0s>

The Town of Bow Planning Board met on Thursday, January 22, 2026 at 7:00 PM in Room C of the Municipal Office Building. Chair Berube called the meeting to order at 7:00 PM beginning with the roll call of the Board.

### 7:00 p.m. ROLL CALL

Planning Board Members present were Don Berube, Jr., Chair; Sandy Crystall, Vice Chair; Kip McDaniel, Selectboard Representative; Jessica Duke, Secretary; Kristen Hayden, member; Mike Lawton, member; and alternate members Ben Davis and Levi Barry. Also present were Karri Makinen, Community Development Director and Dawn Ferringo, Recording Secretary. Excused was Casey DeStefano.

Chair Berube appointed Ben Davis as a voting member for the meeting.

### I. MINOR MODIFICATION / CONCEPTUAL CONSULTATION

### II. PUBLIC HEARINGS

Chairman Berube read the application into the record.

1. **Rehearing of Application 503-24: The S3AK Trust** – Modification of Subdivision Application #503-05 to remove condition #3 stating, “That no construction activity which requires a building permit occur beyond the limits for grading and disturbance as shown on the plan of the new lot.”  
Located off South Bow Road; Map 27, Block 3, Lot 30-I; Zone: Rural (RU).

Chair Berube began by addressing concerns regarding negative commentary on social media directed toward Town boards and officials. He emphasized that board members are volunteers serving in unpaid positions and encouraged community members to participate constructively by engaging in local government or serving on boards. He then expressed appreciation for the work done by Town volunteers and officials.

Attorney Patricia Panciocco appeared on behalf of Eli and Raquel Lehrmann, trustees of the S3AK Trust, owners of property located at Tax Map 25, Block 3, Lot 30-I, situated in the Rural District, where single-family dwellings are permitted.

Ms. Panciocco noted that the purpose of the public hearing was to allow the Planning Board to reconsider the applicants’ request to reopen a subdivision application approved in 2005, with the

subdivision plan recorded in 2006. The request concerns Condition #3 of the approval, specifically whether the condition should be modified or removed, as directed by the Housing Appeals Board (HAB) decision dated October 1st of 2025.

Ms. Panciocco explained that although the Planning Board previously determined there was insufficient evidence to reopen the application, HAB found that the evidence submitted met the legal standard required to reopen an older application. She emphasized that the scope of the rehearing was narrow and limited solely to whether Condition #3 was within the Planning Board's authority. She clarified that the hearing was not related to wetland impacts, ponds, or the previously issued CUP.

Ms. Panciocco then gave some background on the original application that was submitted on April 7, 2005, following the merger of Lots 30 and 30-H by the prior owners. The Bow Planning Board reviewed the application for zoning and subdivision compliance on April 22, 2005, and comments were addressed prior to issuance of a public hearing notice.

The Planning Board accepted the application as complete on June 2, 2005. During a July 2005 hearing, abutter concerns were raised regarding a right-of-way, flooding, and wetlands. In response, the applicant submitted a revised plan prior to the August 4, 2005 hearing, relocating the proposed house site to the frontage along South Bow Road. Due to the revised plan, the hearing was continued to allow for additional abutter notification.

The public hearing resumed on September 1, 2005, opened at approximately 8:11 PM, and closed shortly thereafter, with no public testimony presented. During Planning Board deliberations following the close of the public hearing, Condition #3, which restricts construction requiring a building permit to the limits of grading and disturbance shown on the approved plan, was introduced and added as a condition of approval.

Ms. Panciocco noted that the subdivision plans identified areas of "buildable" and "non-buildable" land for each lot but did not define the term "buildable." She stated that the only applicable definition is found in the zoning ordinance, which excludes wetlands, steep slopes, ledge, floodplains, and other constrained areas. She asserted that, after applying required setbacks, environmental constraints, and land dedication for roadway purposes, the remaining area designated for construction under Condition #3 does not meet zoning or septic system requirements for a single-family dwelling.

Ms. Panciocco stated that Condition #3 was imposed after the public hearing closed and effectively prevents reasonable residential use of the property. She asserted that the condition exceeded the Planning Board's authority and resulted in denial of an otherwise permitted use. She emphasized that the applicant is not alleging intentional wrongdoing by the Planning Board, but is requesting that, following testimony regarding site conditions, the Planning Board reconsider whether Condition #3 should be modified or removed.

Ms. Panciocco requested Jacques Belanger of JE Belanger Land Surveying join the conversation to testify on behalf of the applicant. Mr. Belanger stated he was retained in 2022 to assist with locating wetland flags and preparing a base map for the property. He explained that he also

assisted another surveyor in finalizing prior plans due to that surveyor's retirement and license nonrenewal.

Mr. Belanger testified that his work included locating wetlands, tying in property boundaries, and incorporating LiDAR topographic data for the entire parcel. Information was provided to the project engineer to assist with driveway alignment and wetland crossing plans prepared in October 2025. He stated that his team conducted twelve (12) test pits within the area shown on the approved plan as the designated "buildable pocket" near the road frontage. Based on the test pit results, he testified that the area contains shallow soils, ledge close to the surface, exposed bedrock, and poorly drained soils, and lacks a suitable receiving layer necessary for installation of an on-site septic system. He noted that average depth to ledge was approximately 11.7 inches, with no locations meeting the minimum requirement of 18 inches of natural soil.

He went on to explain that state septic system standards require a minimum of 18 inches of undisturbed natural soil above ledge, plus additional vertical separation to construct a compliant system, which could not be achieved in the front buildable area shown on the plan. He testified that even with alternative septic system designs, minimum soil separation requirements could not be met.

Mr. Belanger further testified that grading limitations, roadway dedication, and ledge conditions prevent the front area from accommodating a septic system or residential structure, even for a modestly sized home. He stated that more suitable soil and buildable areas exist on the north side of the property, beyond the wetland area.

Mr. Belanger referenced a timber harvest plan identifying portions of the front area as unproductive land, characterized by exposed ledge and poor drainage, consistent with current site conditions. He stated that the test pits were professionally excavated, surveyed, and accurately located.

Ms. Panciocco then introduced Aaron Wechsler of Aspen Environmental Consultants. Mr. Wechsler explained that he was retained by Jacques Belanger on October 20, 2025, to evaluate whether the area along the property frontage is buildable under current state and local regulations. Mr. Wechsler stated he observed the excavation of test pits on October 21, 2025, and confirmed that measured depths to ledge were consistent with those documented on the survey plan.

Mr. Wechsler noted that he reviewed the historic subdivision plan, current survey data, and other project documentation. Based on his review and field observations, he stated that the frontage area does not meet New Hampshire Department of Environmental Services (NHDES) requirements for a septic system due to insufficient depth of natural soil over ledge. He reported an average depth to ledge of approximately 12 inches, which does not meet the minimum requirement for a receiving layer.

Mr. Wechsler further testified that the frontage area does not meet the Town's definition of buildable land, citing insufficient soil cover and site constraints. He stated that he attempted multiple septic system layouts using various conventional and alternative technologies, including

advanced and reduced-footprint systems, but none could be configured to meet regulatory requirements. He noted that efforts to avoid impacts to the wetland buffer would still require grading to extend into the future road widening area and the right-of-way. He stated that accommodating a residence in the frontage area would also require encroachment into the wetland buffer.

He further stated that an access driveway to the rear of the property has already received wetland crossing approval and that, regardless of where a residence is located, some form of driveway access to the upland portion of the lot would be required. He noted that construction in the frontage area would constitute an additional impact beyond the driveway and would not be consistent with conditional use permit standards requiring minimization of impacts to the wetland buffer.

Based on these constraints, Mr. Wechsler testified that he was unable to design a compliant layout for development in the frontage area and stated that development in the rear portion of the property, as originally proposed, was more feasible.

Mr. McDaniel noted that Ms. Panciocco requested the rehearing be limited to Condition #3 of the approval and not include discussion of the driveway. The Board agreed to confine discussion and testimony to the scope of Condition #3 and requested that all parties respect those limits during the hearing.

Ms. Panciocco asked Mr. Wechsler if he thought NHDES would grant waivers for the minimum soil separation requirements. Mr. Wechsler noted that, even if waivers were sought, he did not believe NHDES would grant waivers for the minimum soil separation requirements. He noted his professional background, including prior employment with NHDES and approximately 19 years of experience designing septic systems, and stated he has never seen such waivers issued for these conditions.

Mr. Wechsler stated that based on test pit data alone, the frontage area cannot support a compliant septic system for residential use. He concluded that development in the frontage area is not feasible under existing regulatory standards.

Mr. McDaniel asked if the applicant's consultants had explored whether allowing development within the wetland buffer through a Conditional Use Permit (CUP) would enable installation of a septic system in the frontage area.

Mr. Wechsler responded that this option was evaluated during site layout analysis. He testified that, even with expansion into the wetland buffer, the frontage area lacks sufficient undisturbed natural soil (receiving layer) to meet state septic system requirements. Test pits conducted both within and beyond the originally designated area did not achieve the minimum 18 inches of natural soil over ledge. The consultant concluded that granting a CUP would not resolve the site limitations and would not make the frontage area suitable for a septic system.

*A motion was made by Mr. McDaniel and seconded by Ms. Duke to accept the application as complete. A unanimous vote of the Board followed.*

Chair Berube stated that the hearing would remain focused solely on consideration of Condition #3 of the approval and noted that any discussion beyond this condition, including a potential Conditional Use Permit (CUP), would require a separate and more extensive process at a later time. Board members agreed with this approach.

The Chair then opened the public hearing at 7:48 PM.

Shaun Cmar, 10 South Bow Road, stated that he lives directly across the street from the subject property and supported removal of Condition #3. He stated that additional setback and spacing would preserve the small-town character of the neighborhood and reduce visual impacts between homes.

Jonathan Woetzel, 57 Albin Road, speaking with his wife Carolina, expressed support for removal of Condition #3. He spoke from the perspective of younger residents regarding housing affordability and stated that restrictive zoning contributes to limited housing supply. He also spoke as a taxpayer, expressing concern over town resources being spent on litigation. He further shared personal history growing up on the subject land and stated that he believes responsible residential use would allow another family to enjoy the property without harming natural resources.

Sean Wray, 101 Woodhill Road, owner of property including a portion of Greylure Pond, spoke in opposition to removing Condition #3. He stated that he participated in the original 2005 hearings and site walk and recalled that Condition #3 was added at that time to address wetland concerns and to enable approval of the subdivision. He stated that the prior owner agreed to the restriction as part of the approval process. Mr. Wray said that removal of the condition would undermine protections the Board deemed necessary in 2005. He further noted his own experience complying with wetland-related regulations and stated that rules should be applied consistently.

Mr. Wray also referenced prior discussions regarding wetlands, endangered species habitat, and source water protection areas, but the Chair noted that discussion should remain focused on Condition #3.

Mr. McDaniel noted for the record that a written statement was submitted by Steven Jeffers, 103 Woodhill Road, but was not read aloud because it addressed wetland and driveway issues beyond the scope of Condition #3. The statement was provided to the Board for the record. Ms. Makinen informed the Board that no other written comments were received prior to the meeting.

Tom O'Donovan, Bow Open Spaces and the Bow Drinking Water Protection Committee, stated that the applicant's consultants had addressed many prior concerns. He emphasized the importance of groundwater and wetland protection, noting that most Bow residents rely on private wells. He raised questions regarding whether additional soil testing was conducted in areas comparable to potential buffer impacts and suggested further analysis. The Chair and Board members noted that these comments were related to matters beyond the scope of Condition #3.

The Chair then asked if there were any additional public comments. No further comments were offered, and the public hearing was closed at 8:02.

Board members discussed the history of Condition #3, noting that it was added in 2005 as a compromise to allow approval of the subdivision due to wetland constraints. Several members expressed that, with the benefit of new technical information not available at that time, the frontage area subject to Condition #3 is now demonstrated to be unbuildable due to insufficient soil depth to bedrock for a compliant septic system, even with potential buffer impacts.

Board members discussed that land use boards should not unnecessarily restrict buildable land when applicants comply with applicable regulations, and that the Planning Board's role is to ensure regulatory compliance rather than dictate specific building locations. Members noted that multiple-qualified experts testified that the frontage area cannot support a septic system and that development in that location is not feasible.

The Board acknowledged that alternative development scenarios, including Conditional Use Permit considerations, were outside the scope of the current rehearing and were not before the Board.

*A motion was made by Mr. McDaniel and seconded by Mr. Davis to remove Condition #3 from the approved subdivision plan. The Board voted unanimously in favor and the motion passed.*

*A motion was made by Mr. McDaniel and seconded by Ms. Duke to adopt the following Findings of Fact:*

- New and substantive information has been presented to the Planning Board that was not available at the time of the original subdivision approval in 2005 or in 2025.*
- Credible testimony was provided by multiple qualified experts who regularly appear before the Town and whose testimony the Board finds reliable.*
- Based on this expert testimony, the Planning Board finds that the portion of the lot restricted by Condition #3 is not buildable.*
- Specifically, the frontage area lacks sufficient natural soil depth over bedrock to support a compliant septic system.*
- The Board finds that this limitation exists even if impacts to the wetland buffer were to be considered, and after evaluating multiple potential building layouts and dwelling sizes.*
- Additionally, the Planning Board finds that there have been no changes to applicable wetland buffer regulations since 2005.*

*The motion to approve the Findings of Fact passed, with all members in favor.*

Mr. McDaniel raised a point of privilege regarding a photograph of his minor child being circulated on social media in connection with the matter before the Board. He stated that while criticism of elected officials is expected, involvement of a child was inappropriate, and he requested that the image be removed. He clarified that he was not accusing the applicant or any individual present.

274 Mrs. Lehrmann stated that neither she nor her husband use social media. Mr. McDaniel reiterated  
275 that he was not alleging the Lehrmanns were responsible.

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277 Mr. Lehrmann addressed the Board, stating that he had spoken with numerous individuals  
278 regarding the matter, including state legislators and members of local organizations, and  
279 described the personal and financial impact of the process on his family.

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281 **III. OLD BUSINESS**

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283 **IV. NEW BUSINESS**

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285 **V. CORRESPONDENCE AND OTHER BUSINESS**

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287 **VI. REVIEW OF MINUTES**

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289 The Planning Board reviewed the minutes of the January 8, 2026 meeting.

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291 *A motion was made by Mr. McDaniel and seconded by Ms. Crystall to approve the January 8,*  
292 *2026 Planning Board minutes as written. The motion passed with all in favor.*

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294 **VII. NON-PUBLIC SESSION RSA 91-A:3**

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296 *Ms. Crystall made a motion to adjourn at 8:24 PM. Chair Berube seconded the motion. The*  
297 *Planning Board unanimously voted in favor.*